

On October 16, 2007 appellant, then a 55-year-old program support assistant, filed a traumatic injury claim alleging that on October 11, 2007 she injured her upper back, right shoulder and arm to stop her chair from rolling backwards on an uneven floor. The Office

accepted the claim for right upper arm and shoulder strains. Appellant stopped work on October 11, 2007 and has not returned.

In a November 26, 2007 disability note, Dr. Matthew D. Ohl, a treating Board-certified orthopedic surgeon, indicated that appellant was totally disabled. A November 26, 2007 progress note from Dr. Ohl, reported that appellant was seen for right shoulder pain. Physical examination findings included a negative drop arm sign and forward elevation of 95 degrees without pain, but pain afterwards.

On December 21, 2007 and January 15, 2008 appellant filed claims for wage-loss compensation for the period November 27 to January 24, 2008. She also provided time-analysis sheets for the period November 27 to January 24, 2008.

By letter dated January 7, 2008, the Office informed appellant that the medical evidence of record was insufficient to support her claim of total disability. Appellant was advised as to the medical evidence required to support her claim. She submitted a November 26, 2007 progress note and a January 7, 2008 disability note from Dr. Ohl who detailed examination findings for appellant's left shoulder together with a January 24, 2008 note of Dr. John Gaul. Both Drs. Ohl and Gaul attributed appellant's disability to a carpal tunnel condition.

On January 14, 2008 Dr. Ohl stated that a magnetic resonance imaging (MRI) scan revealed a bulging disc. However, he could not definitely "state that this is caused by appellant's workers' compensation problems, although it definitely aggravates [appellant's] symptoms." Dr. Ohl referred appellant to Dr. Alden Milam, IV, a Board-certified orthopedic surgeon, for further evaluation.

In a January 18, 2008 report, Dr. Milam reviewed medical documents at the request of Dr. Ohl. He opined that appellant's C5-6 cervical spondylosis with disc bulging and bilateral carpal tunnel syndrome were unrelated to her accepted October 11, 2007 employment injury.

By decision dated February 21, 2008, the Office denied appellant's claim for wage-loss compensation for the period November 26, 2007 to January 24, 2008. It found that she failed to submit sufficient medical evidence addressing her disability for work.

On March 11, 2008 appellant, through counsel, requested a telephonic hearing before an Office hearing representative, which was held on June 3, 2008. By decision dated July 22, 2008, an Office hearing representative affirmed the denial of her wage-loss claim.

LEGAL PRECEDENT

Under the Federal Employees' Compensation Act, the term disability is defined as an inability, due to an employment injury, to earn the wages the employee was receiving at the time of the injury, *i.e.*, an impairment resulting in loss of wage-earning capacity.¹ For each period of disability claimed, the employee has the burden of establishing that he or she was disabled for

¹ See *S.F.*, 59 ECAB ____ (Docket No. 08-426, issued July 16, 2008); *Prince E. Wallace*, 52 ECAB 357 (2001).

work as a result of the accepted employment injury.² Whether a particular injury causes an employee to become disabled for work and the duration of that disability are medical issues that must be proved by a preponderance of probative and reliable medical opinion evidence.³ The fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁴

The Board will not require the Office to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify her disability and entitlement to compensation.⁵

ANALYSIS

Appellant's claim was accepted for right upper arm and shoulder strains. She bears the burden to establish through medical evidence that she was disabled or attending medical appointments during the claimed time period causally related to her accepted injury. The Board finds that appellant has not established that she was disabled during the claimed period as a result of her employment injury.

Appellant provided several disability notes dated November 26, 2007 to January 7, 2008 from Dr. Ohl and Dr. Gaul. The Board finds that this medical evidence is insufficient to establish her disability for the period November 25 to January 24, 2008. On November 6, 2007 Dr. Ohl did not address whether appellant's disability was due to her accepted right upper arm and shoulder strains or describe the medical services that were rendered. Additionally, his report does not identify any specific dates of disability, but merely noted the beginning date of total disability. The Board has held that medical reports not containing rationale on causal relation are of diminished probative value.⁶ Dr. Ohl did not adequately address the cause of appellant's disability or provide medical rationale explaining how her disability for the claimed period related to the accepted sprains. The reports of Dr. Ohl and Dr. Gaul are insufficient to establish appellant's claim for disability. Moreover, Drs. Gaul and Ohl attributed appellant's disability to carpal tunnel syndrome. The Office did not accept that appellant sustained carpal tunnel as a result of her October 11, 2007 employment injury. As such, appellant has the burden of proof to establish that the carpal tunnel syndrome is employment related. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.⁷ The reports of Dr. Gaul and Dr. Ohl do not provide a rationalized opinion explaining how appellant's disability was related to

² *Sandra D. Pruitt*, 57 ECAB 126 (2005); *Dennis J. Balogh*, 52 ECAB 232 (2001).

³ *G.T.*, 59 ECAB ____ (Docket No. 07-1345, issued April 11, 2008); *Gary J. Watling*, 52 ECAB 278 (2001).

⁴ *D.I.*, 59 ECAB ____ (Docket No. 07-1534, issued November 6, 2007); *Manuel Garcia*, 37 ECAB 767 (1986).

⁵ *Amelia S. Jefferson*, 57 ECAB 183 (2005); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

⁶ *S.S.*, 59 ECAB ____ (Docket No. 07-579, issued January 14, 2008).

⁷ *Ellen L. Noble*, 55 ECAB 530 (2004).

her accepted sprains. The Board finds that their reports are insufficient to establish appellant's claim.

The record also contains a November 26, 2007 report from Dr. Ohl, who noted his treatment of appellant's shoulder injuries and advised that he was unable to attribute appellant's bulging cervical disc to her employment injury. He did not address any dates of disability. As noted, medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁸

Dr. Milam's January 14, 2008 report is also insufficient to establish appellant's disability claim. He concluded that appellant's C5-6 cervical spondylosis with disc bulging and bilateral carpal tunnel syndrome were unrelated to her accepted October 11, 2007 employment injury.

An award of compensation may not be based on surmise, conjecture or speculation.⁹ Neither the fact that appellant's condition became apparent during a period of employment, nor her belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.¹⁰ Causal relationship must be established by rationalized medical opinion evidence.¹¹ The Office properly denied appellant's claim for compensation for the period November 26, 2007 to January 24, 2008.

CONCLUSION

The Board finds that appellant has not established that her disability for the period November 26, 2007 through January 24, 2008 was due to her October 11, 2007 employment injury.

⁸ *J.M.*, 58 ECAB ____ (Docket No. 06-2094, issued January 30, 2007).

⁹ *D.I.*, *supra* note 4; *D.E.*, 58 ECAB ____ (Docket No. 07-27, issued April 6, 2007).

¹⁰ *G.T.*, *supra* note 3; *V.W.*, 58 ECAB ____ (Docket No. 07-234, issued March 22, 2007).

¹¹ *Roy L. Humphrey*, 57 ECAB 238 (2005); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 22, 2008 is affirmed.

Issued: June 1, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board